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December 15, 2010

Ex Parte Presentation

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: GN Docket 09-191, *Preserving the Open Internet*; GN Docket No. 10-127,
Framework for Broadband Internet Service; WC Docket No. 07-52,
Broadband Industry Practices

Dear Ms. Dortch:

On December 14, 2010, Bill Haas, Corporate Vice President, Public Policy and Regulatory, of PAETEC Communications, Inc., and the undersigned held a conference call with Austin Schlick, General Counsel, and Peter Karanjia, Deputy General Counsel, to discuss the pending draft of net neutrality regulations.

PAETEC reiterated its strong support for the proposed net neutrality rules, whether based on a Title I or a Title II theory. We also emphasized that the proposed transparency and disclosure requirements are key. PAETEC stated that any Commission order should address separately the scope and the jurisdictional bases for the required disclosure (a) to interconnected carriers and (b) to consumers. PAETEC discussed the separate jurisdictional basis under Titles I and II (particularly Section 256) of the Communications Act for imposing a requirement of disclosure to interconnecting carriers.

PAETEC also reiterated the following points that had previously been made in its filings in one or more of these proceedings:

- The rules should not apply to or limit managed services.
- The rules should be technologically neutral, so that all rules proposed for wireline should also apply to all wireless services. We pointed out that from the central office or switching center back to the core, the wireline and wireless networks of the large wireless providers (AT&T and Verizon)

overlap and travel largely on the same facilities. Thus, any rules that exempted the “wireless” network would provide a virtually undetectable opportunity for gamesmanship and arbitrage by the large players.

- We discussed the recent spate of requests by fixed wireless providers that fixed wireless be exempted from any wireline rules, and urged that the Commission not do so. As a fixed wireless provider itself, PAETEC is fully aware of the limitations of the technology, but these do not warrant an exemption. We stated that the application of the wireline net neutrality rules to the access segment of both fixed and mobile wireless networks can be tempered by a more fluid application of the concept of reasonable network management, and purported differences do not warrant a less stringent set of wireless net neutrality rules.
- We also discussed the need to ensure that any industry advisory groups that are incorporated into the process for determining “reasonable network management” or “reasonable discrimination” represent all industry and public interest stakeholders and are not dominated by large carriers.

Finally, we were asked in the course of the call to provide any additional precedent that we were aware of regarding the scope of obligations imposed by Section 256. PAETEC is aware that in para. 120 of the *Wireline Broadband Reclassification Order* the Commission noted that Section 256 “affords the Commission adequate authority to continue overseeing broadband interconnectivity and reliability issues regardless of the legal classification of wireline Broadband Internet access.” That conclusion was reiterated in the *Comcast/BitTorrent Order* at para. 19.

If you have any questions, please feel free to contact me at the above number.

Sincerely,

A handwritten signature in black ink that reads "Mark C. Del Bianco". The signature is written in a cursive, flowing style with a horizontal line extending from the end.

Mark C. Del Bianco

Cc: Austin Schlick
Peter Karanjia